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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
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11 HEATHER BROOKSBANK,

12 Plaintiff,

13 v.

14 PRIVATE CAPITAL GROUP, LLC,

15 Defendant.  
16  
17

Case No. 13-cv-02667 HRL (NC)

**ORDER TO SHOW CAUSE WHY  
PLAINTIFF SHOULD NOT BE  
SANCTIONED FOR HER  
FAILURE TO APPEAR AND HER  
FAILURE TO PARTICIPATE IN  
GOOD FAITH IN SETTLEMENT  
CONFERENCE; and ORDER  
SETTING FURTHER  
SETTLEMENT CONFERENCE**

Response Required by July 10, 2015

18 This Court held a settlement conference on June 22, 2015, at 11:00 a.m., upon a  
19 referral from the trial judge, Magistrate Judge Howard R. Lloyd. Plaintiff Heather  
20 Brooksbank failed to appear at the settlement conference and failed to reply to a telephone  
21 message left for her during the conference to explain her absence.  
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23 Under Rule 16(f) of the Federal Rules of Civil Procedure, the Court may issue “any  
24 just orders,” including the sanctions set forth in Rule 37(b)(2)(A)(ii-vii), if a party fails to  
25 appear at a scheduling or other pretrial conference; does not participate in good faith; or  
26 fails to obey a scheduling order. Instead of or in addition to Rule 37 sanctions, the Court  
27 must order a party to pay the “reasonable expenses” including attorney’s fees, incurred  
28 because of noncompliance, unless noncompliance was “substantially justified or other

1 circumstances make an award of expenses unjust.” Fed. R. Civ. P. 26(f)(2).

2 In this case, plaintiff Heather Brooksbank must explain by July 10 in a filed writing:  
3 (1) why she did not appear as ordered on June 22; (2) whether her noncompliance was  
4 “substantially justified or other circumstances make an award of expenses unjust”; (3) why  
5 she should not be sanctioned for her noncompliance; and (4) whether she will appear as  
6 ordered for a settlement conference in the San Jose courthouse on July 24, 2015, at 11:00  
7 a.m.


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9 Defendant Private Capital Group may reply by July 17. The Court will schedule a  
10 hearing, if one is necessary, after considering the written submissions.

11 The Clerk of Court is also requested to reschedule the settlement conference to July  
12 24, 2015, 11:00 a.m. in San Jose courtroom 7.

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14 Plaintiff is reminded that limited scope legal assistance is available from the Federal  
15 Pro Se Program. To schedule an appointment in San Jose, litigants may call 408.297.1480  
16 or sign up in the appointment book located outside the Federal Pro Se Program office on the  
17 second floor of the courthouse. The Federal Pro Se Program at the San Jose courthouse is  
18 open for appointments and on a drop-in basis Monday through Thursday afternoons, and  
19 Fridays by appointment only, and at the offices of the Law Foundation of Silicon Valley on  
20 a drop-in basis Monday through Thursday mornings, and Fridays by appointment only.

21 IT IS SO ORDERED.

22 Date: June 29, 2015

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Nathanael M. Cousins  
United States Magistrate Judge